

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

ROCKWELL AUTOMATION, INC.,)
Plaintiff(s),)
vs.)
BECKHOFF AUTOMATION LLC, et al.,)
Defendant(s).)
Case No. 2:13-cv-01616-RCJ-NJK
ORDER SETTING HEARING
(Docket No. 67)

Pending before the Court is Defendants' motion to stay discovery. Docket No. 67. The Court hereby SETS a hearing on the motion for January 30, 2014, at 3:00 p.m. in Courtroom 4B. To the extent the parties wish to present argument from out-of-town counsel, they may appear telephonically at the hearing. Counsel shall call the Court conference line at 702-868-4906 at least five minutes prior to the hearing. The conference code is 123456. In order to ensure a clear recording of the hearing, the call must be made using a land line phone. Cell phone calls, as well as the use of a speaker phone, are prohibited.

Counsel should be prepared to discuss, *inter alia*, whether any finding that the Court lacks personal jurisdiction over Beckhoff Automation GmbH will lead to a transfer of the case to the District of Minnesota rather than dismissal of Beckhoff Automation GmbH from this case. *Cf. Kor Media Group, LLC v. Green*, ___ F.R.D. ___, 2013 WL 5838679, *2 (D. Nev. Oct. 29, 2013) (finding a Section 1404(a) motion not considered “dispositive” for purposes of a motion to stay discovery). In particular, pursuant to 28 U.S.C. § 1631, even if the Court concludes that it lacks personal jurisdiction

1 over a defendant, it then determines whether the case should be transferred to another court that has
2 jurisdiction rather than order dismissal. *See Miller v. Hambrick*, 905 F.2d 259, 262 (9th Cir. 1990); *see*
3 *also Gray & Co. v. Firstenberg Mach. Co.*, 913 F.2d 758, 761-62 (9th Cir. 1990) (holding that district
4 court lacked personal jurisdiction and remanding for determination of whether transfer is proper
5 pursuant to 28 U.S.C. § 1631); *Pfister v. Selling Source, LLC*, 931 F. Supp. 2d 1109, 1119 (D. Nev.
6 2013) (transferring case pursuant to Section 1631 upon finding no personal jurisdiction in this forum).¹

7 IT IS SO ORDERED.

8 DATED: January 28, 2014

9 
10 NANCY J. KOPPE
United States Magistrate Judge

27 ¹ It appears that Ninth Circuit law governs this inquiry. *See, e.g., Storage Tech. Corp. v. Cisco
28 Sys., Inc.*, 329 F.3d 823, 836 (Fed. Cir. 2003) (applying regional circuit law in reviewing Section
1404(a) transfer).